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June 11, 2003

Mary Cottrell, Secretary
Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, MA 02110

Re: Notice of Inquiry re: Provision of Default Service, D.T.E. 02-40-B

Dear Ms. Cottrell:

Pursuant to the directives of the Department of Telecommunications and Energy (the "Department") at its May 15, 2003 Technical Conference in the above-referenced proceeding, Boston Edison Company, Cambridge Electric Light Company and Commonwealth Electric Company, d/b/a NSTAR Electric ("NSTAR Electric" or the "Company") filed initial comments on May 28, 2003 regarding monthly Default Service procurement issues. Additional participants to this proceeding submitted initial comments on the same date.¹ NSTAR Electric files the following brief reply comments in response to the Initial Comments of other participants.²

The majority of the Initial Comments acknowledged and supported the Department's intent to institute a policy of more frequent Default Service procurement for large commercial and industrial ("C&I") customers, in order to provide better price signals to such customers and to stimulate the competitive market (Constellation Initial Comments at 2, DOER Initial Comments at 1, Fitchburg Initial Comments at 1, MECo Initial Comments at 1, Select Initial Comments at 4, Strategic Initial Comments at 3, WMECo Initial Comments at 1, Cavicchi/Augustine Initial Comments at 4). However, in

¹ The commenters are as follows: (1) Constellation Power Source, Inc. and Constellation NewEnergy, Inc. (collectively, "Constellation"); (2) the Massachusetts Division of Energy Resources ("DOER"); (3) Fitchburg Gas & Electric Light Company ("Fitchburg"); (4) Massachusetts Electric Company ("MECo"); (5) Select Energy, Inc. ("Select"); (6) Strategic Energy, LLC ("Strategic"); (7) The Energy Consortium; (8) Western Massachusetts Electric Company ("WMECo"); and (9) Joseph Cavicchi and Charles Augustine ("Cavicchi/Augustine").

² The Company's silence as to any matter raised in a commenter's Initial Comments should not be construed as acquiescence to any specific position taken.

response to the Department's questions regarding issues arising in the context of monthly, rather than semi-annual, procurement, the majority of the Initial Comments also cited logistical issues that must be overcome before a monthly procurement schedule could be implemented (Constellation Initial Comments at 3-5, DOER Initial Comments at 2-5, Fitchburg Initial Comments at 2-3, MECo Initial Comments at 2-4, Select Initial Comments at 2-4, WMECo Initial Comments at 4-9).³ Indeed, the Initial Comments appear to be generally consistent as to the issues involved in implementing a monthly procurement policy. The main difference of opinion among the Initial Comments focuses on whether those issues can be readily overcome.

For example, the Initial Comments generally acknowledge that the current time allotted by distribution companies and suppliers for: (1) bid solicitation; (2) supplier analysis of requests for proposals ("RFPs") and bid submittals; (3) contract negotiation; (4) Department approval of contracts; and (5) customer notice of Default Service price changes would have to be substantially compressed in order to implement monthly procurements (Constellation Initial Comments at 3-4, DOER Initial Comments at 3-4, MECo Initial Comments at 3-4, Select Initial Comments at 3-4, WMECo Initial Comments at 6-8). Moreover, several of the commenters, including NSTAR Electric, agreed that the development of standardized contracts is necessary in order to greatly reduce the time to complete steps "2" and "3," i.e., analyze RFPs (from the suppliers' perspective) and negotiate contracts (Constellation Initial Comments at 4, DOER Initial Comments at 4, MECo Initial Comments at 4).⁴

In that regard, Constellation acknowledged that "master agreements will need to be periodically amended to reflect changes in the parties' status, changes in industry practice, amendment of NEPOOL market rules or any new DTE rules or new statutes enacted in the Commonwealth" (Constellation Initial Comments at 4). NSTAR Electric agrees that, in order to conduct regularly scheduled monthly solicitations, these issues must be addressed in the context of developing standardized contracts. However, given the variability and evolving nature of market rules noted by Constellation and other commenters and the sometimes divergent business interests of wholesale suppliers, NSTAR Electric submits that it is not possible, as a practical matter, for such contracts to be institutionalized at the present time. In the absence of standardized contracts,

³ In advocating for a monthly procurement policy, neither the Cavicchi/Augustine Initial Comments nor the Strategic Energy Initial Comments acknowledges the logistical issues that the majority of the commenters recognized as prerequisites to a monthly procurement approach. The Cavicchi/Augustine Initial Comments go so far as recommending hourly pricing for Default Service pricing. Although hourly Default Service prices might provide accurate price signals for customers, the Department has properly weighed the practical implications of such a procurement option and determined that it is currently not feasible. See Default Service Procurement, D.T.E. 02-40-B at 38 (2003); Default Service Investigation, D.T.E. 99-60-A at 16-17 (2000).

⁴ In particular, Select's Initial Comments outlined in detail the complexity from a supplier's perspective in analyzing, pricing and responding to an RFP, as well as negotiating a Default Service contract (Select Initial Comments at 3).

individualized contract negotiations are necessary in order to achieve the best prices and best terms for Default Service for the benefit of customers. This result, although necessary and appropriate, creates an obstacle to a monthly procurement process that cannot be reasonably overcome at this time. Accordingly, the Company and other commenters have recommended a quarterly procurement schedule (with monthly stated prices), which would allow distribution companies and suppliers sufficient time to solicit and review bids and negotiate non-standardized contracts, while ultimately providing large C&I customers with the benefit of better price signals than are available currently (Fitchburg Initial Comments at 2, MECo Initial Comments at 1, 4-5, Select Initial Comments at 4-5, WMECo Initial Comments at 3-14).

In addition, several of the Initial Comments acknowledge the Department's five-business-day approval process as a time-intensive factor in procuring Default Service supply (Constellation at 3-4, DOER at 4, MECo at 4, n.10, WMECo at 6-7). Constellation and DOER propose that the Department shorten its approval time (Constellation at 3-4, DOER at 4). MECo suggests that the Department go further and eliminate its review of MECo's procurement agreements altogether (MECo Initial Comments at 4, n.10). However, because the Department has jurisdiction over both: (1) the approval of Default Service tariffs; and (2) the reconciliation of Default Service costs, NSTAR Electric believes that the Department's review and approval period is necessary to confirm that Default Service contracts have been procured through a competitive process and that the costs incurred pursuant to those contracts are reasonable and appropriate.⁵

Several of the Initial Comments also acknowledged either directly or indirectly the Department's current 30-day customer notification policy regarding changes to Default Service prices and its affect on implementing a monthly Default Service procurement policy (see DOER Initial Comments at 2, MECo Initial Comments at 3, WMECo Initial Comments at 5, n.3). Indeed, even MECo's proposed monthly procurement process incorporates the Department's 30-day notification policy and effectively makes its recommended process a two-month solicitation and notification process (MECo Initial Comments at 3). NSTAR Electric recommends that the Department generally maintain the 30-day advance notification policy for customers, because it provides customers the necessary opportunity to react to upcoming Default Service price changes in order to analyze their competitive options.

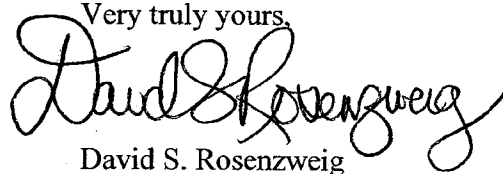
Moreover, the Department's current notification policy should be maintained because it coincides generally with the ISO-NE's rules pertaining to Installed Capacity

⁵ The process in Maine for reviewing supply contracts described by Constellation in its Initial Comments appears to involve a multiple-day submittal and review process by the Maine Public Utilities Commission, even if rates are reviewed and approved in a day's time (see Constellation Initial Comments at 3 (... "most of the information (non-price terms, indicative prices, identity of bidder, etc.) is known and can be provided to the Department well in advance of deliberations"))).

("ICAP") assignments. As discussed in NSTAR Electric's Initial Comments, and as referenced by other commenters, ISO-NE requires the identity of load-serving entities to be provided to it approximately 21 days prior to a contract's effective date, in order to allow ISO-NE to assign ICAP responsibilities through an ICAP auction (NSTAR Initial Comments at 8-9). Accordingly, in order to provide ISO-NE with the identity of load-serving entities approximately 21 days prior to a Default Service supply contract's effective date, the contract would need to have been approved by the Department prior to the contract's effective date, minus approximately 21 days. Thus, maintaining the current notification policy provides benefits to customers and enables market participants to comply with current ISO-NE ICAP rules.

Indeed, ISO-NE's ICAP rules would, by their own terms, appear to virtually prohibit the implementation of a monthly procurement process whereby Default Service supply contracts are procured and approved by the Department in one month's time. Accordingly, consistent with the recommendations of NSTAR Electric, Fitchburg, MECo, WMECo and Select, the Department should adopt a quarterly procurement policy that will allow for better Default Service price signals to be available to customers, and that minimizes the logistical obstacles that are inherent in procuring Default Service supply on a monthly schedule.⁶

Thank you for allowing NSTAR Electric the opportunity to provide reply comments in this proceeding.

Very truly yours,

David S. Rosenzweig

Enclosures

cc: Jeanne Voveris, Hearing Officer
Service List

e:/NSTAR/02-40 Default Service/Comments re Monthly Solicitation/NSTAR draft reply comments

⁶ NSTAR Electric suggests that, after sufficient experience exists with the quarterly procurement process and the real, logistical issues discussed in the Initial Comments and herein can be adequately addressed, the Department could in the future revisit the propriety of moving to a monthly procurement process for large customers.

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

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D.T.E. 02-40-B

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon the Department of Telecommunications and Energy, and counsel for all parties, by hand or first class mail, in accordance with the requirements of 220 C.M.R. 1.05 (the Department's rules of Practice and Procedure).



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Dated: June 11, 2003